

IPSWICH PLANNING BOARD MEETING MINUTES

Thursday, September 3, 2015, 7:30 p.m.

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a meeting of the Ipswich Planning Board was held on Thursday, September 3, 2015 in Room A, 2nd floor of Town Hall. Board members present: Heidi Paek, Jay Stanbury, Cathy Chadwick, Keith Anderson and Kathleen Milano. Associate member Carolyn Britt also attended. Senior Planner, Ethan Parsons also attended.

Paek convened the meeting at 7:30 p.m. with a quorum present.

ANNOUNCEMENTS: The 27 Water Street and 47 Turkey Shore hearings will be continued without discussion tonight at the request of the applicants.

CITIZENS' QUERIES: None

CONSENT ORDER:

ADOPT MINUTES FROM 7/23/2015

MOTION: Chadwick moved to approve the consent order. Anderson seconded. The motion passed unanimously.

REQUEST by Gary Jernegan for approval of standing sign at 55 Mitchell Road, per Condition #6 of January 8, 2015 Special Permit

Paek explained the Board has received the plans and designs for the signs. Jernegan appeared before the Board to discuss the plan. Paek opined that this is a minor modification.

MOTION: Stanbury moved to approve this as a minor modification, Chadwick seconded. The motion passed unanimously.

MOTION: Chadwick moved to approve the standing sign, Milano seconded. The motion passed unanimously.

Documents:

- *Email request from Gary Jernegan to Ethan Parsons for approval of standing sign at 55 Mitchell Road, received 8/27/15*
- *Site Plan showing proposed location of standing sign, received 8/27/15*
- *Photograph showing proposed location of standing sign, received 8/27/15*
- *Sign drawing, received 8/27/15*
- *1/8/15 Special Permit Decision for 55 Mitchell Road*

REQUEST by Meridian Associates for a minor modification to the June 25, 2015 Site Plan Approval for a project at 110 County Road

Paek explained that the proposed change will reduce the size of the addition and move building area away from the wetland toward the south. Peter Pommersheim of Meridian Associates appeared before the Board to discuss the changes.

MOTION: Anderson moved this as a minor modification. Milano seconded. The motion passed unanimously.

MOTION: Milano Moved to approve the minor modification. Chadwick seconded. The motion passed unanimously.

Documents

- *Letter from Peter Pommersheim to Ethan Parsons requesting approval of minor modification to Site Plan Approval granted June 25, 2015*
- *Sheet A2.1 First Floor Plan, prepared by Olson Lewis + Architects, 8/20/15 (proposed)*
- *Sheet A2.1 First Floor Plan, prepared by Olson Lewis + Architects, 6/24/15 (approved)*
- *Sheet A4.1 Exterior Elevations, prepared by Olson Lewis + Architect, 8/20/15*
- *Site Grading Plan, prepared by Meridian Associates, 6/23/15 and revised 8/20/15*

REQUEST by Meridian Associates for a minor modification to the January 29, 2015 Site Plan Approval and Special Permit for a project at 95 Turnpike Road

Peter Pommersheim appeared before the Board to discuss this change. As the site was developed, the owner decided he would like to relocate a dumpster toward the southern corner. The Conservation Commission has approved this change as a minor modification. Paek asked if the dumpster would be visible from Route 1. It was confirmed that it would be visible for a very short amount of time but likely not visible as the vegetation grows.

MOTION: Milano moved that this is a minor modification. Chadwick seconded. The motion passed unanimously.

MOTION: Anderson moved to approve the minor modification. Chadwick seconded. The motion passed unanimously.

Documents:

- *Letter from Peter Pommersheim to Ethan Parsons requesting minor modification of Special Permit and Site Plan Approval granted 1/29/15*
- *Sketch Plan to Accompany a Minor Modification Request, prepared by Meridian Associates, 8/25/15*
- *Special Permit and Site Plan Approval Decision, dated 1/29/15*

CONTINUED PUBLIC HEARING ON PROPOSED ZONING BYLAW AMENDMENTS:

Paek discussed solar, noting it has been discussed by the Board in previous years. There are strong opinions on this proposal on both sides of this issue. She would like to thank the people who have been involved so far, and feels this was a fair process with lots of voices being heard. The summary of the proposal is that it seeks to regulate not only ground mounted solar but to expand it to roof mounted systems. Existing requirement for systems over 10kW would be unchanged, commercial systems would still require a special permit. Paek noted that she had received a recommendation to exempt small-scale installations, such as those that power signs and fences. Another issue that was addressed is glare and preventing it on abutting properties and roadways. Solar access is part of this proposal, and this is a controversial issue. The reason for the solar access protection is to protect sunlight on an installation so it can continue to be productive for the owner. She noted that this aspect of the regulation is controversial and the last taskforce meeting ended inconclusively.

Bruce Smith, 421 Linebrook Road: Member of the solar zoning bylaw taskforce. He would like to thank Ms. Paek for running the meetings so respectfully. He feels solar problems are very rare. The

builder who installed his panels had never seen a problem with glare. He doesn't think we should be imposing costly and time consuming measures to prevent a rare occurrence. He feels the bylaw will impose on people's ability to install solar units. He spoke with solar companies and they indicated that they would not install in Ipswich if these rules were passed. Installers should be aware that there are tools to use, but they should not be mandatory. The citizen's petition put in a measure that would lower the height of the units. He said that we have a Massachusetts general law that regulates aspects of solar installations. It came to his attention that there are three towns in Massachusetts that have adopted restrictions limiting the height to 10 feet. Do we in Ipswich want to be aggressive about regulating solar or do we want to promote it, he asked. He feels Ipswich should promote solar, because of the real threat of climate change. Paek said it is true that most towns are silent on solar. She wanted to remind people that Ipswich does have a solar bylaw that went through at town meeting in 2012, which was for large scale installations. Also, she said that regarding the height restrictions, several installers said they could work with the height restrictions.

Mike Johnson, 12 Kinsmans Court: He also was on the solar taskforce, though he said cannot support the bylaw as it is currently written. He feels that it puts unnecessary requirements on people trying to install solar panels in town. He feels we should increasingly be using solar and other renewable energy in this town. These regulations would impose additional cost and permitting for all applicants for solar energy systems. Solar glare is an extremely rare event, in over 100 installations there is only one reported glare problem in town. He asked if the Planning Board has decided what level of solar glare is acceptable. Some members of the taskforce felt that glare modelling should be part of the installations. Several installers had never performed the modeling before, some only would run it for large scale projects. Solar access is the only protection in this bylaw that would protect solar installations, and this appears to be removed from the bylaw. Why is the abutters' property more important than the property with the solar installations? The Massachusetts Department of Energy and Resources thinks solar access rights are a valid issue. The guidance issued by the state specifically allows towns to use zoning bylaws to protect solar access. He urges the Planning Board to reject the draft bylaw as written or change it.

Phil Goss, 417 Linebrook Road: As a victim of solar glare, he has spent a lot of money on legal fees in the absence of the bylaw in town to protect him from his neighbor's solar panels, which created hazardous glare on his property. He doesn't want anyone to have the impression he is opposed to solar. The issue is whether they will be installed in a responsible manner. Not requiring some type of solar modeling to make sure there is no nuisance on a neighbor is negligence. He feels this is really important to have a bylaw that includes protection for abutters. He feels the bylaw draft, with the exception of solar access, has many compromises in it. Paek wanted to reiterate that screening for aesthetic reasons is not proposed in the bylaw. While aesthetics may not be regulated, screening is recommended as a reasonable effort to prevent glare. In terms of the costs of modelling there is some free software and it is as good as the data entered and subject to interpretation.

Eric Krathwohl, 1 Stage Hill Road: Said he is a lawyer who works with people in the solar industry. He understands the driving effort to avoid glare impacts, and in certain circumstances that is an important and real concern. He has talked with people about how rare of an issue this. He questions whether we need this bylaw at all, he feels that the point of this bylaw is to protect people from glare. If you are going to do this, you also should absolutely do the solar access right, to protect the people who have installed solar panels. This would have more equal protections. For the modelling, he has a hard time believing that it would not be a significant cost to people installing panels. He would be opposed to this sort of burden being placed on applicants. He would like the Board to reject the bylaw, but if the Board decides to move forward he feels they need to include the solar access rights and to eliminate the modeling requirements.

Phil Goss, 417 Linebrook Road: Wanted to point out that out of the one hundred installations in town, only three are on the ground. Ground mounted installations create a larger risk for glare problems. He feels solar protection is an infringement on property rights.

Britt commented on solar access rights, she has done some research on this issue. She discussed this at length. She did model what the impact would be for light access on abutting properties and she discussed what the results were. Paek said it doesn't mean that an abutter is totally restricted from what they can do in their backyard. This is to present a balanced proposal at Town Meeting. Chadwick asked if the model was on roof mounted or ground mounted, Britt said she did each. With ground mounted it would be seven feet at the property line. This is not the whole property, it is a narrow part that would be aligned with the sun. It also depends on level ground. Chadwick felt we may not need the access rights if nothing is really being impinged on. About 2/3 of the states in the US have solar access laws. Parsons contacted the Attorney General's office about this issue, he has exchanged emails and has a phone call on Monday about this issue. The individual did indicate that it is clear that Chapter 40A section 9B provides municipalities with tools to protect solar access. He said that if there is compelling public interest in the regulation, it would likely be supported by the Attorney General. He stated that the submittal requirements under part 3F of the proposed bylaw are documents the Building Inspector requires today. These would not be new requirements.

Brian Hone, 29 Upper River Road: Has concerns about the language on glare modeling. He asked if there was a clear mathematical model where acceptable levels of glare could be measured. He said that if not, it is not a standard any Board can enforce. If this is going to be applied it has to be enforced on any building in town, not just on solar. Otherwise this is not fair, and would be subject to challenge. Paek said there is no objective standard in the proposed bylaw. In terms of being concerned about glare from other sources, one option was to approach glare from any source through a general bylaw including.

Elizabeth Krafczuk, 10 Heartbreak Road: Would like to applaud the Board for having this discussion. We need to move forward in terms of allowing solar to grow in this town. She feels these are learning struggles as we go along, and being courteous to neighbors is important but so is global warming.

Carmel Valianti, 421 Linebrook Road: Has been involved with solar for many years. Has asked former students working in the field about the incidence of glare and only one person had it happen with a small-scale panel.

Anderson said he has no problem with the 10 foot height requirement, because as part of the special permit process the Planning Board could allow higher. He feels as worded, the modeling is required and he is stuck with this issue. Chadwick is also stuck at this place as she is not convinced the modeling is useful at this point. She think it's an expense for every single solar application. Milano said she is fine with everything up to the modeling being required because there is usually a way to tweak modeling to change the outcome. She feels to require it for everyone is excessive. Stanbury is comfortable with the paragraph on glare. Milano asked if the panels could be made with anti-reflective materials. Paek said she felt anti-reflective materials should be added as a reasonable effort. Stanbury agreed with requiring glare modeling, noting that other projects require drawings and he feels many people could look at drawings and see if glare could be a potential problem. He does not feel it should be required but leave the option open. Britt felt that the "by reasonable efforts" language should leave off the last sentence.

Anderson said it is incumbent on the installer of the solar panels to place them in an area that is best suited for solar collection. He said installers must consider their placement in relation to property lines. He doesn't feel the Board can cross over to saying that somebody who lives next door can't plant a tree or build a shed in a certain place but he does think this should be discussed at Town Meeting as a separate

article. Chadwick felt separating it is essential. She said she would rather see the initial article pass and is afraid it won't with the access piece added. Milano agreed and would like the issues separated. Stanbury also agrees this should be a separated issue. Britt felt they should stay together because at Town Meeting it could be removed. She feels that solar is important enough that people who have made the investment should also have some protections. Anderson felt it is not only an issue about it being rejected, the other part is the bylaw moves from the realm of solar protection to property rights.

Elizabeth Krafchuk, 10 Heartbreak Road: When we talk about solar access, some people put everything financially into installing these panels and there are only so many places they can be installed. She said access is a big deal and should be part of the proposed amendment. This is a time to stand up to mitigate the impact of global warming.

Mike Johnson, 12 Kinsman Court: Under 40B[A] there is an authorization for towns to adopt access laws, should they so choose.

Paek summarized the discussions on this issue. Everyone is in agreement on not including the small panels on light poles and other objects. Four members of the Board would like to see the solar access piece separated from the glare piece, but have it move forward. Two members, Paek and Britt, would like to see it remain as part of the main amendment.

MOTION: Chadwick moved to refer the solar amendment proposal as discussed to the Selectmen for inclusion on the warrant. Anderson seconded.

Lodging Proposal: Anderson discussed the lodging proposal and where it stood. The general consensus is to look at the Table of Uses for these types of buildings. There are inconsistencies in the table. The definition of an inn has been changed to more actively reflect how the state defines an inn. Parsons commented on this issue, and raised the matter of making this amendment applicable to new inns established after the effective date of the bylaw. The other change would make the Planning Special Permit Granting Authority; however, there are alterations to inns in some districts that could happen today and those should be left alone. Milano said this would make one board deal with all of these issues. Anderson agreed that the bylaw should be forward looking, but wanted to make sure no loopholes would be found.

Everyone is in agreement that a lawfully existing inn would be grandfathered. Anderson wanted to know if everyone was in agreement that an inn should be by special permit in the IR district going forward. It was confirmed that inns in the IR district will be considered through special permit process. Chadwick wondered why this was only in the IR and it was confirmed that if it was in the commercial district these would be reviewed anyway. Paek is supportive of having the permitting authority across the Board be the Planning Board. Anderson and Chadwick agreed.

The Board is in agreement to revise the language as discussed and add language clarifying that the amendment would be forward looking.

MOTION: Anderson moved to bring this to the Selectman for inclusion on the Warrant. Chadwick seconded.

Miscellaneous Changes: Paek summarized the changes that had been discussed at previous meetings.

MOTION: Chadwick moved to recommend to the Selectman for inclusion on the Warrant. Milano seconded.

MOTION: Anderson moved to close the public hearing. Chadwick seconded. The motion passed unanimously.

Documents:

- *Email to Ethan Parsons from Michael Johnson*
- *Solar Contractors responses on solar glare, prepared by Planning Department Staff*

CONTINUED PUBLIC HEARING: Request by Aubuchon Hardware Co., Inc. pursuant to Section X of the Zoning Bylaw to renovate an existing building and parking area at 116 County Road, Assessor's Map 54A, Lot 008 0, located in the Highway Business District.

Paek explained what had taken place since the last meeting and acknowledged that the Planning Board received the Design Review Board comments. The applicant discussed the changes that had taken place since the last meeting. The plans now show more detail on parking and landscaping. Milano discussed the site visit and said she is concerned with parking. She asked if this piece of the property is the minimum that can be leased by Aubuchon. It was explained that the lease currently doesn't allow them to have additional parking. Milano is also concerned that there isn't a proposed walkway in front of cars next to the building. She noted that the Board doesn't yet know how many vehicles would be accessing the entirety of the site. She is worried about pedestrian and vehicular traffic being in the driveway. It was explained that the front parking would be moving further into the common access by four feet in order to add a sidewalk. Paek asked if a portion of the parking area could be green area and a portion display area. It was explained there will be seasonal display, and at least one quarter of this would be plants for sale for at least the spring through mid-fall season. Paek wondered if the parking lot would be paved to the building. It was confirmed that it depends on inventory. Paek explained that it would be nice to have more landscaping in this area. She would prefer instead of planters something that is consistent with neighboring properties, including grasses and perennials. Milano wondered if there could be trees in this area, even if they were ornamental. Chadwick agreed with this idea because it is a corridor to the town. Paek said a more defined landscape plan, more consistent with the area was recommended. Stanbury agrees with Milano on having the buffer between the parking and the building. Paek liked the idea of moving the propane to the periphery of the property. It was explained there was no area that could hold the propane filling station because of the conservation issues. Parsons explained that the Conservation Commission may not completely oppose the idea of moving the propane. Paek wanted to discuss the signs because they are asking for larger signs than is allowed. She would like to get the Board's opinion on the signage. Stanbury felt that he was somewhat opposed to allowing larger signs because it would set a precedent. Chadwick agrees they should be kept within the bylaw. Paek agreed with sticking to the bylaw. Parsons explained that since multiple businesses would likely occupy the site, they could be limited in their signage options based on Aubuchon's signs. It was explained that a directory sign should be brought forward. Anderson felt that the larger sign wasn't outrageously large, and the smaller signs may be difficult to read. He said this is still technically a Highway Business district. Britt wondered about stormwater and drainage and if that would be discussed. There may be stormwater issues on this site that need to be addressed. She knows that they are not changing anything structural, but she thought there could have been an improvement. Parsons said that a waiver has been requested on all stormwater requirements, and noted that there is no data upon which to base constructive comments related to stormwater. Peter Pommersheim, Meridian Associates, appeared before the Board to say Meridian is now

working on the full design for the site and there will be an overhaul of the stormwater management system in a latter phase of the design.

Brian Hone, 29 Upper River Road: He is asking that pedestrians be taken into account on this project and along the County Road frontage. He said the YMCA doesn't clear their sidewalks and neither does Southern Heights and there are children in the road in the winter. With three retail businesses in there, they should be connected by sidewalks and they should be cleared in the winter. He asked the Board to take sidewalks seriously on this project and would like sidewalks that are continuous from the YMCA to Route 133 that are cleared of snow.

Parsons discussed the review period on this project. The review period is approaching 60 days from the date of filing. He recommends that the Board and the applicant agree to an extension.

The extension is agreed to by both parties. Parsons suggested the review period be extended beyond September 24th. It was suggested it be extended to October 16th to allow two more meetings. Stanbury felt seeing the big picture would be very helpful.

MOTION: Anderson moved to continue the public hearing. Chadwick seconded. The motion passed unanimously.

Documents:

- *Email from Fire Chief to Ethan Parsons, sent 8/31/15*
- *Site Plan, prepared by Dunn McKenzie, Inc., 2/26/14, and revised 7/20/15 and 8/21/15*
- *DRB Recommendation*

CONTINUED PUBLIC HEARING, 27 Water Street:

MOTION: Chadwick moved to continue without discussion, Anderson seconded. The motion passed unanimously.

CONTINUED PUBLIC HEARING, 3-5 Lakemans Lane: The applicant requested an extension to October 16th.

MOTION: Milano moved to continue the public hearing. Anderson seconded. The motion passed unanimously.

CONTINUED PUBLIC HEARING, 47 Turkey Shore Road:

MOTION: Milano moved to continue the public hearing without discussion, Stanbury seconded. The motion passed unanimously.

Staff Update on Long Range Planning Matters:

Parsons discussed how the Board of Selectmen have invited him and the Board to appear before them to discuss the comprehensive planning update process and housing issues. Parsons said the Planning Department submitted a proposal to Tufts for graduate student help with preparing a housing needs assessment. Paek said we have had such great help with students from Tufts, and wanted to publicly thank the summer intern, Liz Pongratz, who will attend Tufts in the fall. The Board discussed who will present the proposed articles to Town Meeting.

NEW BUSINESS: None

ADJOURNMENT MOTION: Chadwick moved to adjourn the meeting at 10:04 p.m. and Anderson seconded. The motion passed unanimously.

Respectfully submitted,

Jennifer Dionne

The Board approved these minutes on September 24, 2015.